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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 LEADERSHIP STUDIES, INC., a  
13 California corporation,

14 Plaintiff,

15 v.

16 BLANCHARD TRAINING AND  
DEVELOPMENT, INC., a California  
17 corporation, and Does 1-10, inclusive,

18 Defendants.

19 BLANCHARD TRAINING AND  
DEVELOPMENT, INCORPORATED,

20 Counterclaim-Plaintiff,

21 v.

22 LEADERSHIP STUDIES, INC.,

23 Counterclaim-Defendant.  
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CASE NO. 15CV1831 WQH-KSC

**DECLARATION OF A. JAMES  
BOYAJIAN IN SUPPORT OF  
OPPOSITION TO BLANCHARD  
TRAINING AND DEVELOPMENT,  
INC.'S MOTION FOR SUMMARY  
JUDGMENT**

**NO ORAL ARGUMENT UNLESS  
REQUESTED BY THE COURT**

[Filed Concurrently with Opposition to  
Blanchard Training and Development,  
Inc.'s Motion for Summary Judgment]

**DECLARATION OF A. JAMES BOYAJIAN**

I, A. James Boyajian, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am an associate with Zuber Lawler & Del Duca LLP, attorneys of record for Plaintiff and Counterclaim-Defendant Leadership Studies, Inc. (“Leadership Studies”) in the above-captioned case. I have personal knowledge of the facts stated herein, and if called to testify, I could competently do so.

2. I am personally familiar with the documents attached to Leadership Studies’ Response To Separate Statement Of Undisputed Material Facts And Leadership Studies’ Statement Of Additional Undisputed And Disputed Material Facts (“RSUMF”) submitted herewith. All documents bearing a bates label in the footer starting with “BLANCHARD” are true and correct copies of documents produced by Defendant and Counterclaim-Plaintiff Blanchard Training and Development Incorporated (“Blanchard Training”) in the above captioned case; whereas all documents bearing a bates label in the footer starting with “CLS” are true and correct copies of documents produced by Leadership Studies in the above captioned case.

3. Leadership Studies filed the present lawsuit to address Blanchard’s breaches of contract, and also to resolve related disputes regarding the intellectual properties and other rights of the parties, after receiving information that indicated Blanchard Training was trying to usurp the goodwill to the Situational Leadership® trademark in breach of the parties’ 1987 licensing agreement (“1987 Agreement.”). Leadership Studies did not take a shotgun approach to litigation. It made every decision with careful consideration of the evidence. The issue has been decades in the making, Dr. Hersey, tragically passed before the latest dispute commenced. Leadership Studies has collected and analyzed this record without his input, and despite ongoing discovery issues with Blanchard.

1           4.     The parties engaged in written discovery starting in August 2016,  
2 including several sets of Interrogatories, Requests for Admission, and Requests for  
3 Production, and their respective counsel met and conferred multiple times to  
4 informally resolve various issues related to the copyright infringement claim, all of  
5 which were documented in follow-up written correspondences.

6           5.     On December 13, 2016, Leadership Studies located and produced Dr.  
7 Paul Hersey's 1975 dissertation ("1975 Dissertation") to Blanchard Training.

8           6.     To date, Blanchard Training has not confirmed in writing or otherwise,  
9 in response to Leadership Studies counsel's December 30, 2016 letter, that it "[h]as  
10 conducted a reasonable search and diligent inquiry, and has produced all responsive  
11 documents relevant to the chain of title issue or the sale of intellectual property  
12 rights[.]" A true and correct copy of Leadership Studies' December 30, 2016 letter  
13 was attached to Blanchard Training's Statement of Undisputed Material Facts as  
14 Exhibit B.

15           7.     On February 28, 2017, Leadership Studies' counsel delivered another  
16 letter to Blanchard Training's counsel ("February 28 Letter") stating that Leadership  
17 Studies is narrowing its copyright infringement claim to only those new original  
18 elements of the four-quadrant bell curve diagram appearing in the 1975 Dissertation.  
19 An image of the actual model at issue ("1975 Work") was included in the letter to  
20 avoid any confusion. A true and correct copy of this letter along with the transmittal  
21 email for the same are attached to the RSUMF as Exhibit 8.

22           8.     On March 29, 2017, Blanchard Training filed its motion for summary  
23 judgment ("MSJ") without ever having responding to the February 28 Letter or even  
24 following up to request the status of the expected supplemental responses. The MSJ  
25 did not even address the 1975 Work, but instead addressed other works that CLS  
26 already committed in writing that it was not pursuing.

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1           9.       Upon receiving service of the moving papers on March 29, 2017,  
 2 Leadership Studies' counsel promptly alerted Blanchard Training's counsel about  
 3 these issues via email, inquiring whether the MSJ had inadvertently overlooked  
 4 Leadership Studies' position as was explained in the February 28 Letter. However,  
 5 Blanchard Training's counsel confirmed that they did receive our February 28  
 6 Letter, and represented that the MSJ would not be withdrawn. Since the MSJ  
 7 ignored the February 28 Letter entirely, this was the first time that Blanchard  
 8 Training had ever communicated to Leadership Studies that the representations in  
 9 the February 28 Letter, narrowing the copyright claim to the single 1975 Work, was  
 10 somehow not sufficient. A true and correct copy of the entire email chain of  
 11 correspondence between counsel following service of the MSJ is attached to the  
 12 RSUMF as Exhibit 9.

13           10.     On March 31, 2017, Leadership Studies served its supplemental  
 14 responses to certain interrogatories in a document entitled, "PLAINTIFF AND  
 15 COUNTERCLAIM DEFENDANT LEADERSHIP STUDIES, INC.'S AMENDED  
 16 RESPONSES TO INTERROGATORY NOS. 2, 3, 5, 6, AND 7[,]" a true and  
 17 correct copy of which is attached to the RSUMF as Exhibit 10. The responses  
 18 juxtapose images of the 1975 Diagram next to a recent example of Blanchard  
 19 Training's "Situational Leadership ® II" diagram to show how Blanchard Training  
 20 continues to use and sell materials that copy original elements of the four-quadrant  
 21 bell curve diagram from the 1975 Dissertation work; indeed, Blanchard Training  
 22 continues to use those elements in its diagrams appearing in, among other things, its  
 23 publications, mobile applications, and YouTube videos.

24           11.     Since the February 28 Letter, Blanchard Training has produced four  
 25 more sets of documents, totaling 4,746 documents with 26,148 pages; 6,559 pages  
 26 of which were served on March 31, 2017 (*i.e.*, 2 days *after* Blanchard Training filed  
 27 the MSJ) and another 6,228 of which were served on April 14, 2017 (*i.e.*, the Friday  
 28

1 before the Monday-deadline of Leadership Studies' opposition). True and correct  
2 copies of Blanchard Training's transmittal letters served along with its past four  
3 production sets are attached in chronological order to the RSUMF as Exhibit 11.

4 12. Documents produced among the last several batches were clearly  
5 available to Blanchard Training for *months* earlier as they involve key custodians on  
6 topics relevant to the MSJ, and yet Blanchard Training has held them back until  
7 very recently; Leadership Studies counsel has not been provided with enough time  
8 to review all of these documents prior to the filing of its opposition papers.

9 13. Leadership Studies understands that the deal to which Blanchard refers  
10 in the attorneys' fee request portion of its supporting memorandum was conditioned  
11 on Leadership Studies (a) also agreeing to be sold to the third party or (b) agreeing  
12 to a revised 1987 Agreement detrimental to its interests; yet, despite the protective  
13 order being in place in this case, Blanchard has resisted and the third party with  
14 which it was engaged in merger negotiations have resisted producing any relevant  
15 information Leadership Studies has sought in discovery, forcing Leadership Studies  
16 to file yet another motion to compel discovery which is now pending before the  
17 Magistrate Judge.

18 I declare under penalty of perjury under the laws of the United States of  
19 America that the foregoing is true and correct.

20 Executed on this 17th day of April, 2017, at Los Angeles, California.

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23 s/A. James Boyajian  
A. James Boyajian